

OPEN MEETING



0000149766

MEMORANDUM

ORIGINAL

TO: THE COMMISSION

Arizona Corporation Commission

DOCKETED

2013 DEC -3 P 3:36

FROM: Utilities Division

DEC 03 2013

DATE: December 3, 2013

DOCKETED BY

AZ CORP COMMISSION
DOCKET CONTROL

RE: IN THE MATTER OF QWEST CORPORATION'S PERFORMANCE
ASSURANCE PLAN (DOCKET NO. T-01051B-03-0859)

On August 27, 2013, Qwest Corporation d/b/a CenturyLink QC ("Qwest or "CenturyLink") filed an application to modify the Qwest Performance Assurance Plan ("QPAP" or "PAP") and Performance Indicator Definitions ("PIDs"). The Arizona Corporation Commission ("Commission") initially approved Qwest's PAP in Decision No. 64888 (June 5, 2002), as part of the Qwest Section 271 approval process. The QPAP uses PIDs to measure Qwest's performance to ensure Qwest continues to provide adequate service to wholesale customers following its approval, pursuant to Section 271 of the Telecommunications Act, to provide intrastate interLATA telecommunications services. The QPAP is Exhibit K to Qwest's Interconnection Agreements ("ICAs") and the PIDs are set forth in Exhibit B to Qwest's ICAs. The QPAP was implemented when Qwest received Section 271 authorization from the Federal Communications Commission ("FCC") on December 15, 2003.

The most recent Decision in which the Commission amended the QPAP was Decision No. 70386, dated June 13, 2008. In that Decision, the Commission approved Revised Exhibits K and B, as reflected in a Stipulation regarding certain PIDs and the QPAP provisions ("the 2007 Stipulation"), submitted by Qwest Corporation ("Qwest"), Eschelon Telecom, Inc. ("Eschelon"), DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad"), and McLeodUSA Telecommunications Services, Inc. ("McLeod"), ("the Stipulating Parties") on June 22, 2007.

CenturyLink requests that the existing Arizona PAP and PIDs be replaced with the PAP and PIDs that were approved by the Colorado Public Utilities Commission ("CPUC") on June 12, 2013.

THE COLORADO SETTLEMENT

On May 23, 2013, CenturyLink, Comcast Phone of Colorado, LLC ("Comcast"), MegaPath Corporation fka DIECA Communications, Inc. dba Covad Communications Company ("MegaPath"),¹ tw telecom of Colorado LLC ("tw telecom"), Eschelon Telecom of Colorado,

¹ On August 20, 2010, MegaPath, Inc., CCGI Holding, Inc., and Speakeasy Broadband Services, LLC merged, with respective operating companies continuing to operate as separate entities. As part of an intra-company pro forma roll-up merger, Covad Communications Company was merged into its sister affiliate, DIECA Communications, Inc., effective December 30, 2011. Effective January 1, 2012, DIECA changed its name to MegaPath Corporation.

Inc. dba Integra Telecom ("Integra"), and Staff of the CPUC (collectively the "Settling Parties") filed a settlement agreement with the CPUC for the purpose of redesigning CenturyLink's PAP (the "Colorado Settlement"). On June 17, 2013, the CPUC entered a written order approving the Colorado Settlement.² According to CenturyLink, the Colorado order is now final, and is not subject to any petitions for reconsideration.

The CLECs that were parties to the Colorado Settlement either directly, or through an affiliate, are CLECs that operate in Arizona. Further, there are several other CLECs that participated in the Colorado PAP proceeding, but were not Settling Parties (hereinafter referred to as "Active CLECs"). These Active CLECs included Access Point, Inc., Liberty Bell Telecom,³ McLeodUSA Telecommunications services, Inc., dba PAETEC Business Services (now Windstream), and XO Communications Services, Inc. None of the Active CLECs opposed the Colorado Settlement. All of these CLECs also have ICAs in Arizona. In addition to the Active CLECs, all other CLECs in Colorado had notice and an opportunity to participate in that proceeding, including the settlement negotiations. There was no opposition to the Colorado Settlement, and most of these CLECs also have ICAs in Arizona. The Settling Parties agreed that the redesigned PAP that was approved by the CPUC should be proposed for adoption in the 13 other CenturyLink Regional Bell Operating Companies' ("RBOC") states (of which Arizona is one) with an effective date of January 1, 2014.

NOTICE AND OPPORTUNITY TO INTERVENE

CenturyLink and Staff have recently worked together to develop a mailing list of affected Arizona carriers in that docket. The resulting list of carriers includes all of the carriers with which CenturyLink has interconnection agreements, and/or which have been certified by the Commission as either a Facilities Based or Resale CLEC. Notice of this Petition has been emailed to each company on the list, using the same current email addresses that are used for carrier notifications. Carriers are well-used to receiving notices from CenturyLink in this fashion for important matters regarding their contracts and operation.

In addition to the notice described above, CenturyLink has specifically served this Petition on the intervenors who affirmatively intervened or participated as settling parties for the 2007 Stipulation, and to the carriers which are among the Colorado Settling Parties named in paragraph 7 above, by U. S. mail to currently known addressees.

QPAP REVISIONS

Staff has reviewed the filing, the Colorado Settlement Agreement and the proposed revised Arizona QPAP and PIDs. No comments have been received from any of the CLECs that would be affected by changes to the QPAP and PIDs. As with the 2007 Settlement agreement that last revised the QPAP and PIDs, the CLECs who executed this most recent Settlement are among the largest CenturyLink competitors and they are known to contest Qwest policies that

² See, CPUC Decision No. C13-0722, Docket No. 02M-259T.

³ Liberty Bell Telecom is now known as dishNET Wireline, LLC.

they believe impede their ability to compete. Cox, another large CenturyLink competitor, was notified of the filing and has not challenged the CenturyLink Petition.

The Settling Parties' agreed-upon QPAP and PID changes are summarized as follows:⁴

Payment Structure Revisions

- Institutes a three-tiered, severity-level payment structure to replace the current month-by-month definitions of non-conformance and payment triggers,
- In connection with the new severity levels, replaces current payment increment amounts with three levels of amounts,
- Revises payment escalations for consecutive months of non-conformance so that they also apply to the two new levels² of severity,
- Specifies that all payments are to be made to individual CLECs affected by non-conforming performance levels and thus removes the concept of separate "tiers" of payments,
- Identifies 9 payment-eligible and 18 Diagnostic (i.e., non-payment-eligible) PIDs, and also 10 payment-eligible products,
- Removes the annual Minimum Payments and Low Volume, Developing Markets provisions,
- Standardizes the statistical methods and parameters across all states in which CenturyLink QC has PAPs, based on the original Colorado PAP,
- Sets the annual payment caps at levels specified for Arizona at \$67 million,
- Modifies the timing required for making payments and payment reporting for DS1-Capable Loops and EELs-DS1 in order to accommodate a provision calling for CenturyLink to pay the larger of the MR-8 Trouble Rate amount and the sum of the OP-5 New Service Installation Quality and MR-7 Repair Repeat Reports amounts
- Sets the interest rate applicable to late payments and underpayments at the U.S. Treasury rate in place at the beginning of the current calendar year, unless the Commission has established a different, up-to-date rate for customer deposits, in which case that rate will be used, and
- Refines the dispute resolution process and change provisions to be more consistent across all states.


⁴ See Application Exhibit I.

PID Revisions

- 9 PIDs remain payment eligible in the redesigned PAP,
- 18 PIDs will be retained for reporting only (i.e., not payment eligible),
- 11 products will continue to be reported and 10 will be payment eligible if the related sub-measurement is not Diagnostic,
- Make PID language invulnerable to replacements of systems being measured by PIDs, to the extent possible,
- Modifies/Updates specified standards and provisions
 - Updates the volume threshold for Local Number Portability to reflect current standard intervals
 - Adjusts benchmark standards affected by making Sub-Loops payment eligible
- Changes title of MR-5 ("All Troubles Cleared in 4 Hours") to "Troubles Cleared in Specified Intervals."

STAFF RECOMMENDATIONS

Based on Staff's review of the application and the fact that this was a negotiated amendment between the parties, approved by the CPUC, Staff has concluded that the proposed modifications are just, fair, reasonable, and in the public interest. CenturyLink has filed copies of the Minnesota, Idaho and Utah Commissions' Orders which have approved the revised PAP and PIDs contained in the Settling Parties' Settlement Agreement. As stated previously, none of the affected CLECs have filed objections to the proposed revisions. Therefore, Staff recommends approval of CenturyLink's Petition to modify the Performance Assurance Plan and Performance Indicator Definitions.



Steven M. Olea
Director
Utilities Division

SMO:WMS:sms\MAS

ORIGINATOR: Wilfred Shand

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 BOB STUMP
 Chairman
3 GARY PIERCE
 Commissioner
4 BRENDA BURNS
 Commissioner
5 BOB BURNS
 Commissioner
6 SUSAN BITTER SMITH
 Commissioner

8 IN THE MATTER OF QWEST
9 CORPORATION'S PERFORMANCE
10 ASSURANCE PLAN.

DOCKET NO. T-01051B-03-0859

DECISION NO. _____

ORDER

14 Open Meeting
15 December 17 and 18, 2013
16 Phoenix, Arizona

16 BY THE COMMISSION:

17 FINDINGS OF FACT

18 1. On August 27, 2013, Qwest Corporation d/b/a CenturyLink QC ("Qwest" or
19 "CenturyLink") filed an application to modify the Qwest Performance Assurance Plan ("QPAP" or
20 "PAP") and Performance Indicator Definitions ("PIDs"). The Arizona Corporation Commission
21 ("Commission") initially approved Qwest's PAP in Decision No. 64888 (June 5, 2002), as part of
22 the Qwest Section 271 approval process. The QPAP uses PIDs to measure Qwest's performance to
23 ensure Qwest continues to provide adequate service to wholesale customers following its approval,
24 pursuant to Section 271 of the Telecommunications Act, to provide intrastate interLATA
25 telecommunications services. The QPAP is Exhibit K to Qwest's Interconnection Agreements
26 ("ICAs") and the PIDs are set forth in Exhibit B to Qwest's ICAs. The QPAP was implemented
27 when Qwest received Section 271 authorization from the Federal Communications Commission
28 ("FCC") on December 15, 2003.

2. CenturyLink requests that the existing Arizona PAP and PIDs be replaced with the PAP and PIDs that were approved by the Colorado Public Utilities Commission ("CPUC") on June 12, 2013.

THE COLORADO SETTLEMENT

3. On May 23, 2013, CenturyLink, Comcast Phone of Colorado, LLC ("Comcast"), MegaPath Corporation fka DIECA Communications, Inc. dba Covad Communications Company ("MegaPath")¹, tw telecom of Colorado LLC ("tw telecom"), Eschelon Telecom of Colorado, Inc. dba Integra Telecom ("Integra"), and Staff of the CPUC (collectively the "Settling Parties") filed a settlement agreement with the CPUC for the purpose of redesigning CenturyLink's PAP (the "Colorado Settlement"). On June 17, 2013, the CPUC entered a written order approving the Colorado Settlement.² According to CenturyLink, the Colorado order is now final and is not subject to any petitions for reconsideration.

4. The CLECs that were parties to the Colorado Settlement either directly, or through an affiliate, are CLECs that operate in Arizona. Further, there are several other CLECs that participated in the Colorado PAP proceeding, but were not Settling Parties (hereinafter referred to as "Active CLECs"). These Active CLECs included Access Point, Inc., Liberty Bell Telecom, 3 McLeodUSA Telecommunications services, Inc., dba PAETEC Business Services (now Windstream), and XO Communications Services, Inc. None of the Active CLECs opposed the Colorado Settlement. All of these CLECs also have ICAs in Arizona. In addition to the Active CLECs, all other CLECs in Colorado had notice and an opportunity to participate in that proceeding, including the settlement negotiations. There was no opposition to the Colorado Settlement, and most of these CLECs also have ICAs in Arizona. The Settling Parties agreed that the redesigned PAP that was approved by the CPUC should be proposed for adoption in the 13

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² See, CPUC Decision No. C13-0722, Docket No. 02M-259T.

³ Liberty Bell Telecom is now known as dishNET Wireline, LLC.

other CenturyLink Regional Bell Operating Companies' ("RBOC") states (of which Arizona is one) with an effective date of January 1, 2014.

NOTICE AND OPPORTUNITY TO INTERVENE

5. CenturyLink and Staff have recently worked together to develop a mailing list of affected Arizona carriers in the non-impaired wire center matter.⁴ The resulting list of carriers includes all of the carriers with which CenturyLink has interconnection agreements, and/or which have been certified by the Commission as either a Facilities-Based or Resale CLEC. Notice of this Petition has been emailed to each company on the list, using the same current email addresses that are used for carrier notifications. Carriers are well-used to receiving notices from CenturyLink in this fashion for important matters regarding their contracts and operation.

6. In addition to the notice described above, CenturyLink has specifically served this Petition on the intervenors who affirmatively intervened or participated as settling parties for the 2007 Stipulation, and to the carriers which are among the Colorado Settling Parties, by U. S. mail to currently known addressees.

STAFF REVIEW AND RECOMMENDATIONS

7. The Settling Parties' agreed upon QPAP and PID changes are summarized as follows:⁵

Payment Structure Revisions

- Institutes a three-tiered, severity-level payment structure to replace the current month-by-month definitions of non-conformance and payment triggers,
- In connection with the new severity levels, replaces current payment increment amounts with three levels of amounts,
- Revises payment escalations for consecutive months of non-conformance so that they also apply to the two new levels of severity,

⁴ IN THE MATTER OF THE APPLICATION OF DIECA COMMUNICATIONS DBA COVAD COMMUNICATIONS COMPANY, ESCHOLON TELECOM OF ARIZONA, INC., MCLEODUSA TELECOMMUNICATIONS SERVICES, INC., MOUNTAIN TELECOMMUNICATIONS, INC., XO COMMUNICATIONS SERVICES, INC. AND QWEST CORPORATION REQUEST FOR COMMISSION PROCESS TO ADDRESS KEY UNE ISSUES ARISING FROM TRIENNIAL REVIEW REMAND ORDER, INCLUDING APPROVAL OF QWEST WIRE CENTER LISTS (DOCKET NOS. T-03632A-06-0091, T-03406A-06-0091, T-03267A-06-0091, T-03432A-06-0091, T-04302A-06-0091 AND T-01051B-06-0091)

⁵ See Application Exhibit I.

- 1 • Specifies that all payments are to be made to individual CLECs affected by non-
2 conforming performance levels and thus removes the concept of separate “tiers” of
3 payments,
- 4 • Identifies 9 payment-eligible and 18 Diagnostic (i.e., non-payment-eligible) PIDs, and also
5 10 payment-eligible products,
- 6 • Removes the annual Minimum Payments and Low Volume, Developing Markets
7 provisions,
- 8 • Standardizes the statistical methods and parameters across all states in which CenturyLink
9 QC has PAPs, based on the original Colorado PAP,
- 10 • Sets the annual payment caps at levels specified for Arizona at \$67 million,
- 11 • Modifies the timing required for making payments and payment reporting for DS1-Capable
12 Loops and EELs-DS1 in order to accommodate a provision calling for CenturyLink to pay
13 the larger of the MR-8 Trouble Rate amount and the sum of the OP-5 New Service
14 Installation Quality and MR-7 Repair Repeat Reports amounts,
- 15 • Sets the interest rate applicable to late payments and underpayments at the U.S. Treasury
16 rate in place at the beginning of the current calendar year, unless the Commission has
17 established a different, up-to-date rate for customer deposits, in which case that rate will be
18 used, and
- 19 • Refines the dispute resolution process and change provisions to be more consistent across
20 all states.

21 PID Revisions

- 22 • 9 PIDs remain payment eligible in the redesigned PAP,
- 23 • 18 PIDs will be retained for reporting only (i.e., not payment eligible),
- 24 • 11 products will continue to be reported and 10 will be payment eligible if the related sub-
25 measurement is not Diagnostic,
- 26 • Make PID language invulnerable to replacements of systems being measured by PIDs, to
27 the extent possible,
- 28 • Modifies/Updates specified standards and provisions,
 - Updates the volume threshold for Local Number Portability to reflect current
standard intervals,
 - Adjusts benchmark standards affected by making Sub-Loops payment eligible, and

- Changes the title of MR-5 ("All Troubles Cleared in 4 Hours") to "Troubles Cleared in Specified Intervals."

8. No comments have been received from any of the CLECs that would be affected by changes to the QPAP and PIDs. As with the 2007 Settlement Agreement that last revised the QPAP and PIDs, the CLECs who executed this most recent Settlement are among the largest competitors of CenturyLink, and they are known to contest Qwest policies that they believe impede their ability to compete. Cox, another large Qwest competitor, was notified of the filing and has not challenged the CenturyLink Petition.

STAFF RECOMMENDATIONS

9. Staff has reviewed filing, the Colorado Settlement Agreement and the proposed revised Arizona QPAP and PIDs. Staff has concluded that the proposed modifications do not appear unreasonable. CenturyLink has filed copies of the Minnesota, Idaho and Utah Commissions' Orders which have approved the revised PAP and PIDs contained in the Settling Parties' Settlement Agreement. As stated previously, none of the affected CLECs have filed objections to the proposed revisions. Therefore, Staff recommends approval of CenturyLink's Petition to modify the Performance Assurance Plan and Performance Indicator Definitions.

CONCLUSIONS OF LAW

1. Qwest Corporation d/b/a CenturyLink QC is a public service corporation within the meaning of Article XV of the Arizona Constitution.

2. The Commission has jurisdiction over Qwest Corporation d/b/a CenturyLink QC and the subject matter in this filing.

3. The Commission, having reviewed the filing and Staff's Memorandum dated December 3, 2013, concludes that it is in the public interest to grant approval as proposed and discussed herein.

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ORDER

IT IS THEREFORE ORDERED that Qwest Corporation d/b/a CenturyLink QC's Petition to modify the Performance Assurance Plan and Performance Indicator Definitions be and hereby is approved, as discussed herein, with an effective date of January 1, 2014.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2013.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:WMS:sms\MAS

1 SERVICE LIST FOR: QWEST CORPORATION
2 DOCKET NO. T-01051B-03-0859

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9 MegaPath Corporation
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21 Karen L. Clauson
22 Vice President, Law & Policy
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